

**EDUCATION
LAW CENTER**

THE SCHOOL-TO-PRISON PIPELINE & UPHOLDING THE RIGHTS OF STUDENTS WITH DISABILITIES

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LEGAL DIRECTOR

WHO WE ARE

[Education Law Center-PA \(“ELC”\)](#) is a statewide legal services nonprofit. Our mission is to ensure access to a quality public education for all children in Pennsylvania. We have offices in Philadelphia and Pittsburgh.

We pursue this mission by focusing on the most underserved students: children living in poverty, children of color, children with disabilities, children in the foster care and juvenile justice systems, children experiencing homelessness, English learners, LGBTQ and gender-nonconforming students - and many who are at the intersection of these identities.

Our priority areas include:

Equal Access to
Quality Schools

Adequate &
Equitable School
Funding

Dismantling the
School-to-Prison
Pipeline

KEY TOPICS & OVERVIEW

- **The School-to-Prison Pipeline**
 - Overview of disparate discipline rates
 - Exclusionary School Discipline
- **Students with Disabilities + Discipline**
 - Due Process Protections
 - IDEA Protections
 - Challenging Exclusionary School Discipline For Students with Disabilities
- **Questions**

OUR EDUCATION SYSTEM: A FOUNDATION OF INEQUITY

- Our education system was designed to be racially discriminatory
 - Laws made it illegal for Black children to learn to read or write
 - “Indian” Boarding schools and reform schools were used to assimilate and Americanize
 - Jim Crow, legalized segregation, de-segregation, and re-segregation
 - Historical and present pushback to civil rights initiatives.
 - Present studies indicate large disproportionate learning gaps for Black and Brown students impacted by loss of access to quality education during the pandemic.
- Students with disabilities: excluded, segregated, restrained
 - State laws prohibited the education of children deemed “ineducable”
 - Students with disabilities are in segregated placements and “home”

INCLUSION RATES TODAY IN NJ

New Jersey has one of the lowest rates of including students with disabilities in general education.

National average: 64.8% of students with disabilities receive special education services in the general education classroom.

New Jersey: Only 44.6% of New Jersey students with disabilities eligible for special education services are included in the general education classroom (80% or more of the day) the benchmark for the Least Restrictive Environment (LRE) for students under the IDEA. The rest spend more, most, or all of their time in self-contained settings or out-of-district placements.

New Jersey's inclusion rate has barely changed over the last 20 years, while other states' inclusion rates have increased significantly.

[43rd Annual Report to Congress on the Implementation of Individuals with Disabilities Education Act, 2021 \(IDEA\)](#)

WHAT IS THE SCHOOL-TO-PRISON PIPELINE?

The school-to-prison pipeline is a pathway that leads to **more students being introduced to the justice system and, ultimately, becoming incarcerated.**

It is a culmination and combination of: individual decisions along with school policies, where school discipline pushes students out.

Suspensions = missed instruction days

Increased exposure and police contact due to zero tolerance policies, or for otherwise minor school-related infractions.

Virtually every person who finds their way to prison has a suspension on their school record.

Recent data shows that 66-80% of adult inmates never graduated from high school.



Getty Images

SCHOOL RESOURCE OFFICERS & SCHOOL POLICE



School Resource Officers

- SROs are police officers of the local, county, or state police departments that are stationed in schools (typically full-time) rather than in the community.

In addition to local and state police, **School Resource Officers (SROs)** and **School Police Officers (SPOs)** patrol schools.

- Most SPOs and SROs have the power to arrest students and to issue citations. In many districts, these officers carry firearms.
- In addition to playing a security role, SROs may give talks in classes, meet with students, monitor halls or the lunchroom, or carry out other tasks. *But they have police powers at all times.*

SPOs are police officers employed by school districts (typically full-time) and placed in schools.

THE JUVENILE JUSTICE SYSTEM

Contact between students and police can have long-lasting negative consequences. Students enter the justice system in one of two ways:

- by being arrested and placed in the juvenile justice system or
- by receiving a summary citation in adult court, usually without being arrested

In most cases, a school-related arrest results in a referral to the juvenile justice system.

Once a case is referred to the juvenile system, juvenile probation officers or prosecutors will make a decision about whether to charge the student with a delinquent offense (an offense that would be considered a crime for an adult).

If students are charged in the juvenile system, their cases may be resolved with:

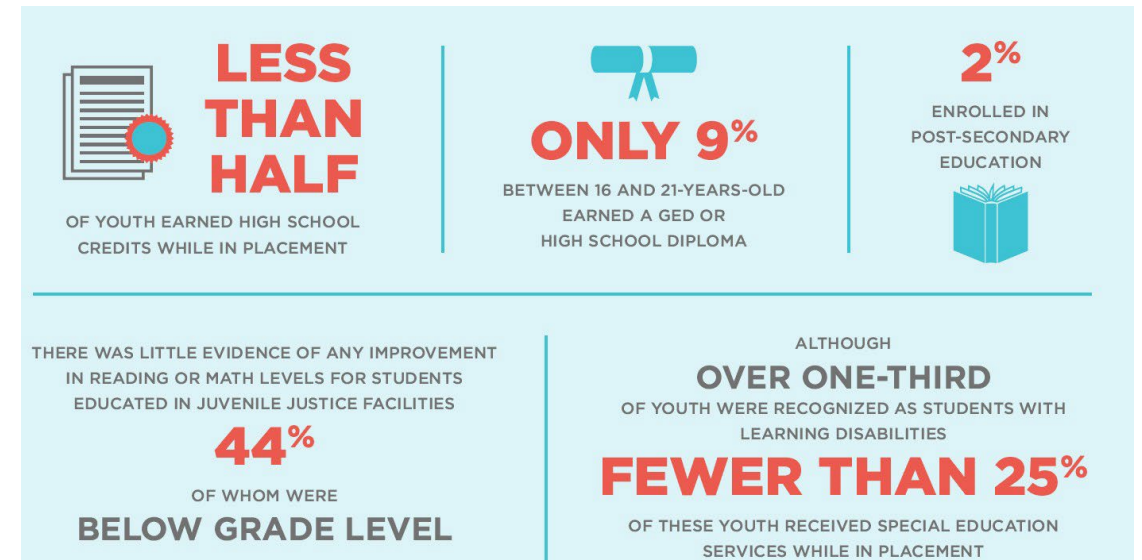
- an adjudicatory hearing (a trial before a judge);
- an admission of guilt (similar to a guilty plea); or
- through diversion services in programs.

OVERVIEW: YOUTH IN JUVENILE JUSTICE SYSTEM

Youth in juvenile justice facilities are perhaps the most *educationally disadvantaged* of all students. When youth re-enter community schools, they commonly struggle to graduate or even remain in school.

- On any given day, 70,000 of students are in custody in juvenile-justice system. Nearly two-thirds are either African-American or Hispanic.
- Fewer than half of those enrolled for at least 90 days earned one or more course credits while attending a juvenile-justice school.
- Only 9 percent of students ages 16 to 21 in such facilities were on track to earn a GED credential or high school diploma. Only 2 percent were accepted and enrolled at a two- or four-year college.

While at least one-third of students are diagnosed with learning disabilities, fewer than 25 percent receive special education services to address these disabilities.



SYSTEM-INVOLVED YOUTH: EDUCATION PROFILE

Compared to other students, youth who are “system involved” experience:

- Higher rates of school mobility
 - Frequent school changes often lead to lost records, credits not transferring
- Higher rates of school suspension and exclusion, often related to trauma
- Lower standardized test scores in reading and math, often related to high remedial needs and higher propensity for absenteeism
- Higher rates of grade retention
- Lower high school and college graduation rates
- Higher rates of developmental delays and behavioral health needs
- More likely to need special education services, but less likely to receive appropriate special education services
 - Failure to identify youth, inaccurate disability identification, lack of continuity for progress monitoring, record transfer issues, poor or non-existent transition plans, and need for more specific and consistent behavioral plans are all factors

SCHOOL DISCIPLINE HAS INCREASED DRAMATICALLY

- Since 1974, the number of students suspended annually **has doubled** from 1.7 to 3.45 million.
 - This is likely underreported as of the 2022-23SY.
- Nationally, **Black students are three times as likely to be suspended as White students.**
 - Black students are suspended for **longer**, for doing less than their white peers
 - One in four Black students is suspended at least once compared with one in eleven White students.
- Data shows inequitable discipline practices that exclude children of color beginning as early as preschool
- A March 2018 USCCR-GAO report determined that **Black students, boys, and students with disabilities** were disproportionately disciplined “regardless of the type of disciplinary action, level of school poverty, or type of public school attended.”
 - **Black students with disabilities represented 18% of all students provided services under IDEA, but 32% of those who were referred to law enforcement, and 26% of expulsions without educational services.**
 - Thus, as the number of suspensions has increased over time, so have racial disparities!

THE CURRENT STATE OF SCHOOL DISCIPLINE



NEW JERSEY'S DATA POINTS

Black students are suspended at **more than 3.3 times** the rate of white students

Latinx/e and multi-racial students are being **suspended at 1.5 times** the rate of white students

Research shows that there is no evidence students of different races misbehave at different rates.

New Jersey's students with disabilities are being **suspended at 1.7 times the rate of other students**.

[Guidance on Discrimination in School Discipline](#) (Aug. 2023)

Office of Attorney General, Division of Civil Rights

WHO IS MOST AT RISK FOR ENTERING THE SCHOOL TO PRISON PIPELINE?

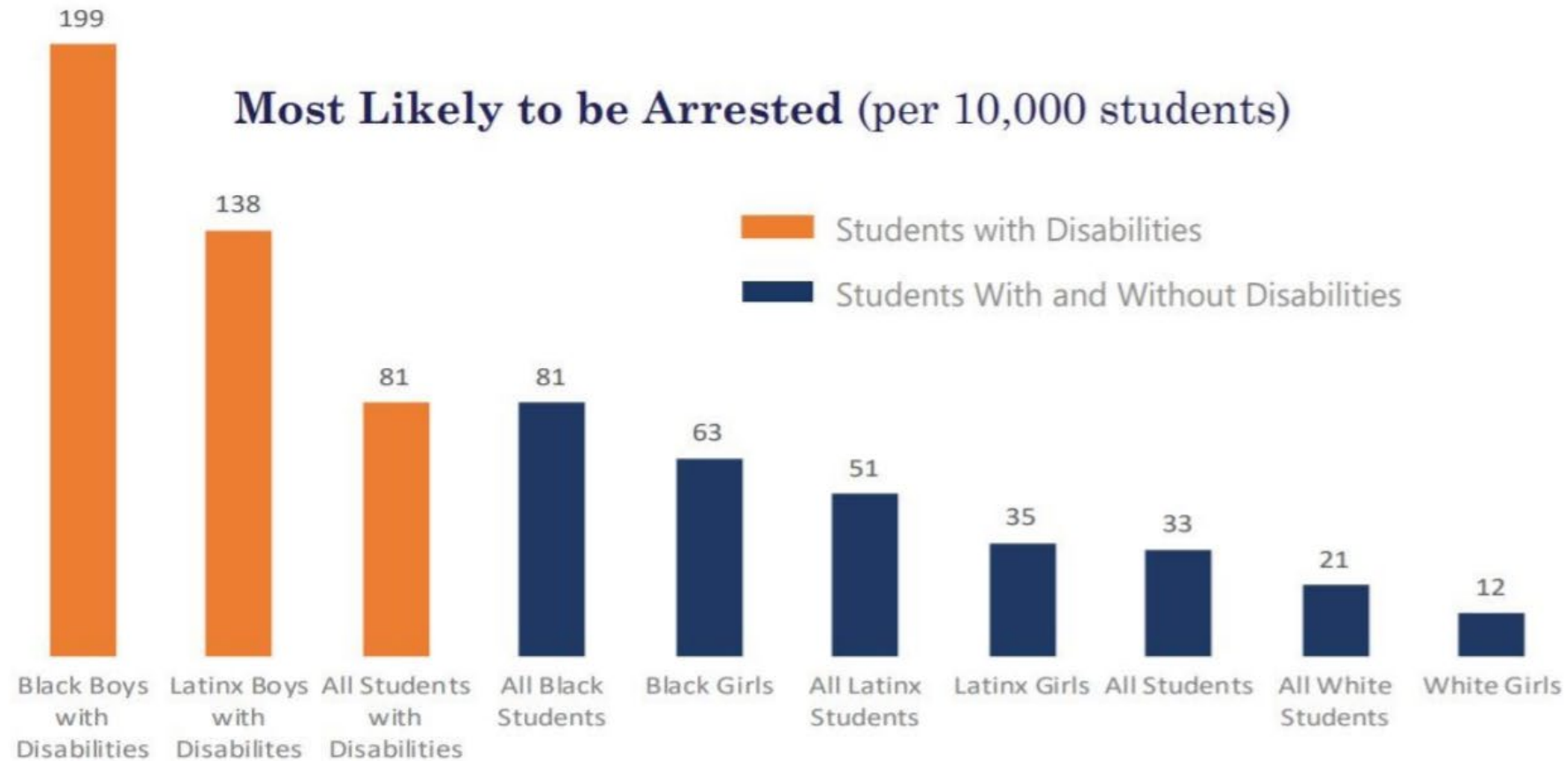
- Racialized and marginalized students who have always been targeted
 - *American Psychologist* study (2021): **26% of Black students received at least one suspension for a minor infraction** over the course of the three years, compared with just **2% of white peers**
 - *Scientific American* article (2023): **50% of the 250 kids expelled from preschool each day are Black boys**
- US Dept. of Education's Civil Rights Data Collection
 - **Black students are 15% of student enrollment and they represent double the number of all in-school suspensions and expulsions**
 - **Black girls six times more likely than white peers** to be referred to law enforcement - higher racial gap than Black boys
 - Check out our "[Supportive Spaces](#)" report for more on Black Girls
 - **Black students with disabilities account for nearly 36 percent of students with disabilities suspended from school, despite representing about 19 percent of all K-12 students with disabilities**



“We have so much to learn from Black girls who attend public schools in our communities. They are the experts on the real-time conditions in schools.”

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DISPARATIES IN PENNSYLVANIA



The STPP, PUSH-OUT, & EDUCATION

If students are pushed out of the traditional classroom, where do they go?

- Juvenile Detention Centers
- Residential Facilities
- Adult prisons
- Alternative schools (AEDY)
- Hospitals and residential treatment facilities
- Cyber Programs
- Nowhere/Drop out

A common denominator in these settings is that **access to education is limited, if available at all.**

- Students may not earn credits, or credits do not transfer, or count towards graduation (i.e. too many electives)

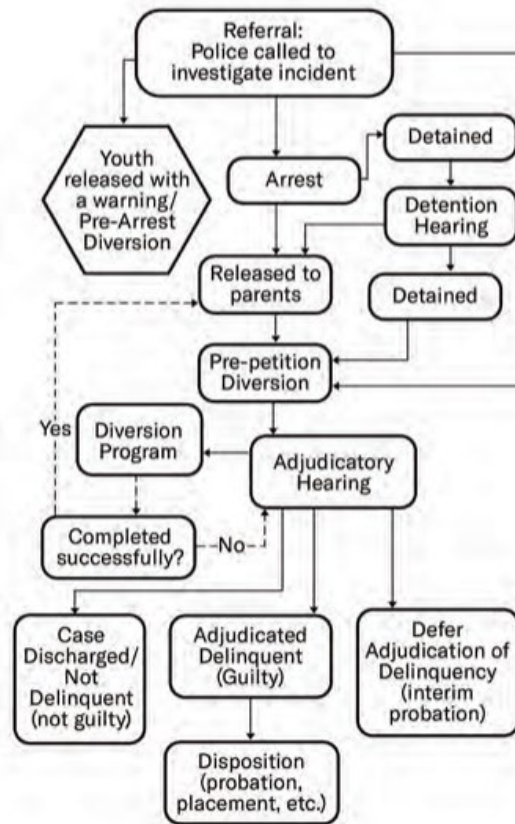
- A new spotlight is turned on families. This looks like: increased or New CYS tracking involvement, probation monitoring, heightened school reporting.

- Students often violate probation by failing to attend school --- returning them to placement.

PATHWAYS THROUGH THE JUVENILE AND CRIMINAL LEGAL SYSTEM

Juvenile Legal System (Youth)

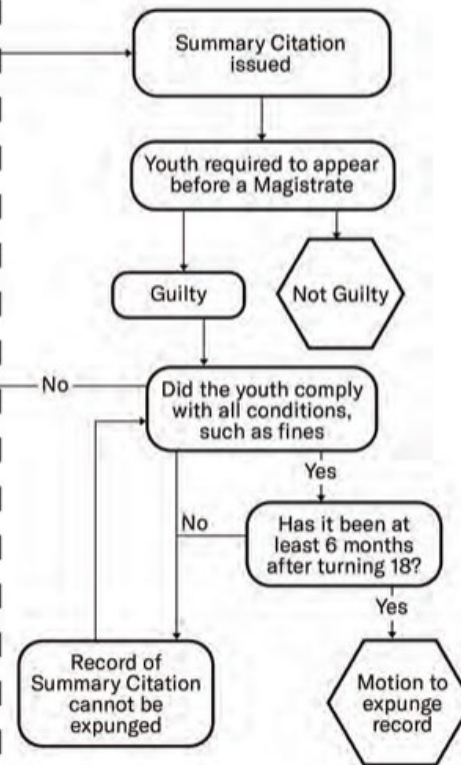
A youth who is between 10 and 21 alleged to have committed a delinquent act before reaching 18 or to have violated the terms of juvenile probation prior to termination of juvenile court supervision.



Expungement - immediately if not guilty; 6 months after successful diversion program; 5 years after supervision if adjudicated delinquent or deferred adjudication. Felony sexual assaults cannot be expunged.

Summary Citations (Adult Criminal Legal System)

No minimum age at which a person can be issued a summary citation



PATHWAY: EXCLUSIONARY DISCIPLINE

TYPES OF EXCLUSIONARY SCHOOL DISCIPLINE (ESD)

1. In School Suspension or ISS
2. Out of School Suspension or OSS
3. Expulsions
 1. Shorter term (“long suspensions”), 1 year, Permanent
 2. Also a concern - Threats of Expulsion
4. Alternative Education for Disruptive Youth (AEDY)
5. Lateral Transfers
 1. Safety Transfers
6. Virtual Exclusions

SCHOOL DISCIPLINE

- Schools have broad authority to impose discipline *with* limits.
 - E.g. - Rules govern conduct during school hours, including time spent coming to/leaving school.
- Students have due process rights. The extent of those rights are directly related to the severity of the punishment - that is, the educational interest at stake.
- There is a right to due process before a school takes disciplinary action.

SCHOOL DISCIPLINE

Discipline type	Days	Due Process Rights	Educ
In-school suspension	Less than 10	Informed of reason; parent notice; your story	Yes
In-school suspension	10 + consec	Written notice with reasons; Informal hearing: meet w/ school, explain, present witnesses	Yes
Out of school suspension	Up to 10 consecutive	Written Notice; Informal hearing	Make up assignments

SCHOOL DISCIPLINE

Discipline Type	Days	Due Process Rights	Education
Transfer to alternative/ discipline school	Open; 45 days for students with disabilities	Criteria for “disruptive youth”; Written notice with reasons; Informal hearing: meet w/ school, explain, present witnesses, records	Inferior and highly unmonitored
Expulsion	More than 10 (can be fixed period, open, permanent)	Written notice with reasons; Formal hearing: officer of the board, witnesses, records. Can appeal to court (30 days)	Parent arrange, or notify school in writing need educ services

EXPULSIONS = FORMAL HEARINGS

- Any out of school suspension over 10 days in a row is an expulsion
- Student has right to attend school **until the formal expulsion hearing** unless school determines that student is threat to school safety
- Hearing (22 Pa. Code § 12.6.)
 - School must send time and place three days before by certified mail
 - Should be held within 15 school days of notification of charges unless both parties mutually agree to extend
 - Hearing is private unless student or parent requests public hearing
 - Student can bring own counsel
 - Student has right to names and statements of witnesses against them
 - Student has right to request witnesses appear in person and answer questions
 - Student has right to testify and present witnesses on their own behalf
 - Written or audio record shall be kept of the hearing and student is entitled to a copy

EXCLUSIONARY DISCIPLINE IN A VIRTUAL CLASSROOM

- Exclusionary discipline triggers due process protections.
- Students who are told not to return to school, or “participate virtually” for a few days are being excluded
 - For students with disabilities, this is a change in placement
 - For students who are excluded for days at a time, the removal may constitute a constructive suspension. After 10 days, it is a constructive expulsion.
- Early “pick ups” required by a school are considered exclusionary discipline (informal suspensions).
 - For students with disabilities, it could be advantageous to document the absences as such in order to trigger a manifestation, IEP meeting, additional assessments, and more.

SPECIAL EDUCATION PROTECTIONS

RIGHTS UNDER SEC. 504 (REHABILITATION ACT OF 1973)

- “Disability” is broadly defined
- Protects child from all forms of “discrimination” based on disability
- Right to an evaluation
- Right to accommodations in school
- Plan should be informed by parent, doctor, evidence-based accommodations (see websites for model 504 plans)



DISABILITY CATEGORIES UNDER IDEA (INDIVIDUALS WITH DISABILITIES EDUCATION ACT)

Specific Learning Disability	Hearing Impairment	Other Health Impairment (OHI) (includes ADHD)	Visual Impairment (includes blindness)	Emotional Disturbance
Deafness	Intellectual Disability	Deaf-Blindness	Autism Spectrum Disorder	Orthopedic Impairment
	Traumatic Brain Injury	Multiple Disabilities	Speech or Language Impairment	

Special Education

- Students have robust rights
 - Individuals with Disabilities Education Act (“IDEA”)
 - Section 504 of the Rehabilitation Act
 - Americans with Disabilities Act (“ADA”)
- **Evaluations**
 - All children *suspected* of having a disability must be evaluated
 - Evaluation completed within 60 days of consent from the parent
 - Eligibility: 1) does a student have a disability; AND 2) does the disability require special education?
- **IEPs** must be annually revised and provide FAPE
 - Free Appropriate Public Education: provide services to ensure that a student gets meaningful benefit from school
 - Address *all* areas of need

Special Education cont.

- **Strong Disciplinary Protections**
 - Must determine if behavior manifests because of disability
 - Students cannot be excluded for behaviors related to their disabilities
- **Compensatory Education**: services for students with IEPs who experienced educational deprivations that resulted in skills loss
 - Services to make up for the losses
 - Required if a student did not make progress, regressed, or did not receive IEP services

MANIFESTATION DETERMINATIONS

WHAT IS IT? WHEN IS IT TRIGGERED?

1. Students who have IEPs or students with “qualifying disabilities” who don’t have an IEP but may need accommodations in school under a “504 Plan” **cannot be disciplined on the basis of their disability.**
2. Special rules apply if a school wants to suspend a student with an IEP for more than:
 1. 10 **total** days for a pattern of behaviors, or
 2. 15 **total** days in a school year, or
 3. 10 cumulative days (an expulsion)

(read: any changes in the student’s placement)

For children with intellectual disabilities, exclusionary discipline is NEVER permissible, unless:

- There is a court order, parental consent, or agreement from Pennsylvania Dept. of Education

THEN WHAT?

If it was a manifestation, the child cannot be expelled or suspended for more than 10 days in a row or 15 school days in the school year. In addition, the IEP team must also conduct a Functional Behavioral Assessment or revise a child’s Positive Behavior Support Plan.

If the team decides it was not a manifestation, and there is no disagreement on record, the discipline proceeds as proposed/implemented.

If the team decides it was not a manifestation but the parent disagrees with the team’s decision, the parent has the right to request a special education hearing. If a student with disabilities is suspended or expelled (for whatever length of time), the school district or charter school must still arrange for the student to receive a free, appropriate public education in accordance with the child’s IEP during the entire time the student is out of school.

PROTECTIONS FOR STUDENTS WITH DISABILITIES

- Have all rights and protections listed earlier, **PLUS** the school must convene a manifestation determination (details on next slide) under IDEA and/or Section 504
- Includes students who do not yet have an IEP if:
 - Parent has requested a special ed evaluation
 - Parent has notified school in writing that student needs special education
 - Or school staff expressed concern over student's behavior to special ed officials
- Protections also cover students with qualifying disabilities under Section 504 even if not yet provided with a Section 504 plan but rights under IDEA are more explicit
- A student with an intellectual disability cannot be suspended for any amount of time without agreement from the parent, Dept. of Education, or an order from a hearing officer or judge.
- If a student with disabilities is expelled, then the **school must arrange for FAPE** for the time student is excluded from school.

MANIFESTATION DETERMINATION

- Prior to any “change of placement” (including a disciplinary transfer) of a student with a disability:
 - The school must hold a manifestation determination
 - The meeting, which the parent must be invited to attend, discusses
 - ✓ Was the student’s behavior “a direct or substantial result” of the student’s disability?
 - ✓ Was the student’s behavior a result of the failure to implement the IEP?
- If the behavior is found to be a manifestation, the school cannot transfer or move to expel.

MANIFESTATION DETERMINATION REVIEWS

- If school wants to suspend student with an IEP for more than 10 days in a row or 15 days total in one school year, then considered a “change in placement” and a manifestation determination review is required.
- Manifestation Determination Review (34 CFR § 300.530(e))
 - Team of people knowledgeable about the student, including the parent
 - Must be held within 10 days of the decision to expel the student and **before** discipline is imposed
 - Review all relevant information in the child’s file, IEP, teacher observations, and parent input to determine:
 - Was the conduct caused by or did it have a direct and substantial relationship to the student’s disability?
 - Was the conduct a direct result of the LEA’s failure to implement the IEP?
 - If either answer is yes, the conduct was a manifestation of student’s disability, so the school cannot proceed with the discipline and instead must conduct a Functional Behavioral Assessment or revise Positive Behavior Support Plan.
 - Parent can request expedited special education hearing to challenge determination

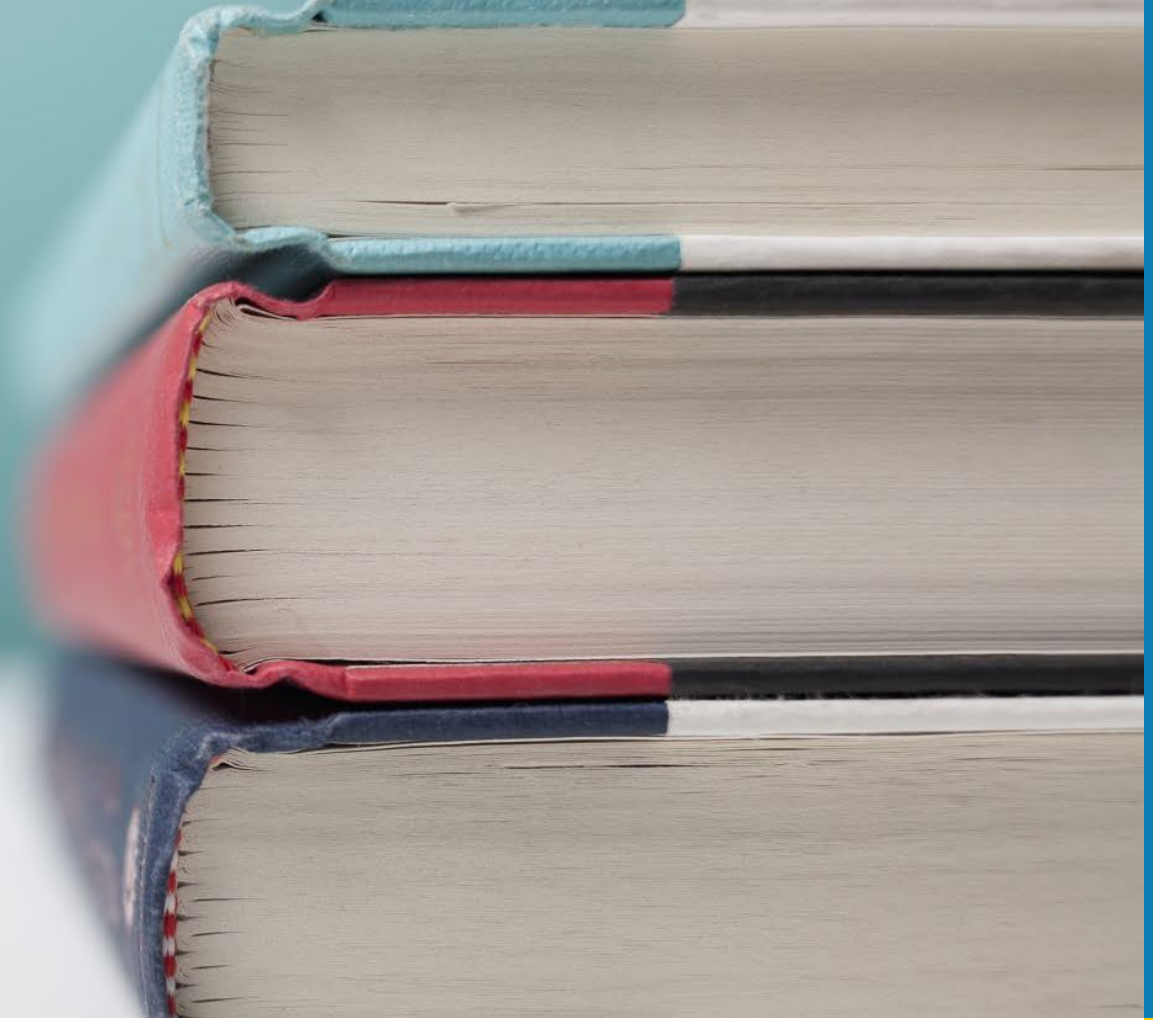
WHAT TRIGGERS THE NEED TO EVALUATE FOR SPECIAL EDUCATION?

Red flags that may signal the need for an evaluation:

- Outside evaluation (e.g. - through dependency court) diagnosing the student with a mental or physical condition
- Longstanding medical diagnoses that impact the student's education (*e.g. - ADHD diagnosed in the first grade coupled with repeated suspensions throughout the years*)
- Single or multiple grade retentions without evaluations
- Data for multiple years indicating critical interventions necessary
- Clear failure for multiple years (*e.g. - the fifth grader who does not know the letter sounds*)
- Fundamental developmental skills lacking in a student who is older than lower elementary (*e.g. - the sixth grader who does not speak*)

INTERIM ALTERNATIVE PLACEMENTS FOR STUDENTS WITH DISABILITIES

- Schools may transfer a student to an alternative setting for up to 45 days without the parent's consent and regardless of whether the conduct was a manifestation of disability if the conduct relates to:
 - Possession of a weapon
 - Possession, selling, etc. of drugs
 - Infliction of serious bodily injury
 - (34 C.F.R. § 300.530(g))
- Can be challenged through an expedited due process hearing; pendent placement is the interim alternative placement. Can still argue for different placement.



***CASE STUDY:* PROTECTING STUDENTS WITH DISABILITIES FROM EXCLUSIONARY DISCIPLINE**

EXERCISING RIGHTS TO PREVENT EXCLUSIONARY DISCIPLINE

Lexi*, is a 2nd grader who was introduced to school during the pandemic. Lexi is a student with an IEP due to her ADHD and a conduct disorder. Lexi overall does well academically but has been identified as a “problem student” by her teacher and principal.

Lexi has already been suspended 5x this year, 2-3 days each time. Lexi sometimes hits other students, throws tantrums, or rips papers off the bulletin board. Now, Lexi is facing a 5-day suspension for an incident that happened during recess.

Lexi’s mom has requested more supports such as counseling, reflection space, a 1:1, a behavioral plan, and that Lexi not be suspended anymore.

Lexi’s Mom recently called the Education Law Center for help.



EXERCISING SPECIAL EDUCATION RIGHTS TO PREVENT EXCLUSIONARY DISCIPLINE

- We informed Mom that the school is now at the threshold to hold a manifestation hearing. NO further discipline can occur without having a meeting to discuss whether the behaviors are related to/stemming from Lexi's disability.
 - If it DOES, the 5-day suspension cannot occur. The school must come up with other options for Lexi.
- Further, because this suspension is longer than 3 days, the school must hold an informal hearing.
 - At the informal hearing alternatives to suspension, the reason for suspension, detailed reports about the incident should be shared and discussed
- ELC will advocate for findings of a manifestation, revisions to Lexi's IEP to add in space for reflection when there is conflict, advocate for services like counseling, or a personal care aid.
 - Other options: a smaller classroom, a private school, a behavioral plan, better training for school staff

SCHOOL DISCIPLINE PRACTICE TIPS

SCHOOL DISCIPLINE PRACTICE TIPS

- Were all **procedural requirements** followed? ([22 Pa. Code § 12.6 - 12.8](#); [AEDY guidelines](#))
 - **NOTE ON REMEDY:** Client may prefer to seek a Resolution/Settlement Agreement instead of asserting the right to a hearing, especially if the hearing would be happening long after the underlying incident.
 - Settlement terms can discuss location, length of placement
 - Be cautious on terms for return to school - reasonable and achievable, or try not to have any
 - Push for increased supports
- **Coercion, “counseling out,” and sending to virtual programs**
 - Did the parent signed a waiver or an agreement to transfer to AEDY or a cyber program?
 - Or did the parent unilaterally (or under threat/coercion) place the student in a cyber program?
- Does the student have **disabilities or suspected disabilities** that relate to the behavior?
 - Did the student have an IEP or 504 Plan?
 - **If not**, is there an underlying “child find” violation? (No evaluation/IEP despite notice of disability)
 - Was there a properly convened manifestation determination?
 - Does the AEDY or Cyber placement provide FAPE?
- Does the student require **ESL**? If so, you can ensure it is provided within AEDY
- Was there underlying **bullying or harassment**?

TIPS FOR NAVIGATING ESD

1. Read everything, keep all paperwork (ask for documents if you never received them, and document any calls or meetings in writing.
2. Consult your school's code of student conduct immediately—schools can only punish students if they break rules listed in the code. In many cases, a student code of conduct identifies the level of punishment that may be imposed.
3. Gather your own information -- Talk to your child's school about the meeting and any questions you have about the incident, such as the students involved in the incident and the adults who were present; Talk with your child and anyone else who might know about what happened.
 1. Get statements when appropriate. Ask if the person would be willing to serve as a witness or prepare a letter of support/character.
4. Most importantly, do NOT agree to anything you do not understand.

KYR: QUESTIONS AND CONSIDERATIONS TO ASK YOURSELF

- Did the behavior or alleged action violate a published school rule? Is the proposed punishment proportional?
- Was I fully notified by the school?
 - *(in writing, timely, with necessary information, provided safeguards or due process rights?)*
- Was my child able to share their side of the story?
- If my child is going to be suspended for 5 days or more, did the school convene an informal conference?
- If my child has a known or suspected disability, was there a Manifestation conference or MDR?
 - If there was an outcome that I disagreed with, were the procedural safeguards provided to me? Did I receive a copy of the MDR worksheet?

Do I believe that my child has been subjected to racial discrimination or disparate treatment?

TITLE VI PROTECTIONS

Title VI of the Civil Rights Act of 1964 protects people from discrimination based on **race, color, national origin** in education programs or activities that receive federal financial assistance.

Applies to public schools (including charters/cyber charters), local and state educational agencies, and other institutions that receive federal financial assistance

- Racial harassment
- School segregation
- Racial disparities in programs, courses, technology/materials, facilities etc.
- Discriminatory discipline
- Hostile environment

Updated [Guidance](#), Dear Colleague Letter, May 7, 2024



WHAT IS A HOSTILE ENVIRONMENT?

A hostile environment exists where there is **conduct** (e.g., physical, verbal, graphic, or written) that is sufficiently severe, **pervasive**, or persistent, so as to **interfere** with or **limit** the ability of an individual to participate in or benefit from the services, activities, or privileges provided by a **school** or college.

Conduct that is severe, pervasive, or persistent;

AND

Interfere or limit ability a student's to participate & benefit from school.

For example:

- Unaddressed peer harassment/bullying, including persistent dead-naming or pronoun misuse of a student
- Prohibiting Pride or BLM flags and other affirming symbols; singling out certain student groups
- Discriminatory policies that treat students differently, or are not applied equally

PREPARING FOR A FORMAL (EXPULSION) HEARING

These are called Formal Hearings for a reason! It is similar to “court” for schools.

Expulsion hearings usually have two parts.

- First, the school must prove that your child violated a written school rule.
- Second, the school must prove that expulsion is the correct punishment for your child’s misbehavior.

Before the hearing, the school must tell you the witnesses and provide the documents they plan to present in their case against your child. It is best to immediately request these materials AND all records relating to the incident, including, but not limited to:

- Witness statements made after the incident, all recordings, any correspondence, police reports, etc. relating to the incident.

Request to view any videos at the school in advance of the hearing. Always ask for it (*everything!*) in writing. You should also ask for the student’s education records.

PREPARING FOR A FORMAL (EXPULSION) HEARING

You have the right for the school's witnesses to be present in person so you may question them. You should request that all witnesses appear in person as soon as possible. There should be a witness who actually saw your child violate the rules and who has firsthand knowledge of the incident.

- Witnesses who just testify about what they “heard” from another person is hearsay. The decision to expel a student cannot be made on hearsay alone.

Request any evaluations you think your child may need prior to the hearing.

Check the school code of conduct to verify whether the alleged violation is eligible for expulsion. If not, raise this issue at the hearing as a defense.

Ask that your child remain in school until the due process proceeding is completed and a decision is rendered.

If you want need more time or are unavailable, you can request a postponement of the expulsion hearing by asking for a continuance.

CHALLENGING DETERMINATIONS

For Suspensions:

- Ensure documents were provided and are accurate. If there are errors, seek a correction.
- Some districts allow for appeals or reconsiderations of suspensions. This may include restorative justice practices and/or correction of a student's attendance record.

For AEDY:

- Families should immediately file an AEDY complaint to challenge the placement/transfer
- For students with disabilities, consult the list of Approved AEDY programs. If the program is not listed, contact the State.

For Expulsions:

- Prior to the hearing, reviewing the handbook, documents, policies, and ensuring proper notice and documents have been issued. If there are missteps in due process, you can request the hearing not proceed (until corrected).
- After a final determination has been made and approved by the Board, appeals must be brought within 30 days to the local Court of Common Pleas.

When a Student is Deemed a Threat:

- Request a copy of the safety or threat assessment/analysis, if applicable. Consider whether the determination was made by a qualified individual such as the school psychologist.
- Continue to ask about the duration - Ask: At what point does the threat or risk end?

For All Matters - Ask questions. Document everything. Do NOT sign anything you don't understand - even when the school sets a strict time limit. Recognize virtual exclusion as exclusionary discipline - the child is still being removed from the classroom as a consequence.

QUESTIONS?



ELC RESOURCES & CONTACT INFORMATION

[Back to School Guide for 2024-25 SY](#)

- Affirming & Safe Schools
- Act 1: Accessing Supports
- Enrollment
- School Discipline
- Attendance & Truancy
- Bullying & Harassment
- Honest & Inclusive Schools
- Students with Disabilities
- Early Childhood Education
- KYR: Students in Care
- Juvenile Justice Involvement
- Students Experiencing Homelessness
- English Learners & Immigrant Students
- School Funding
- LGBTQ & Gender Nonconforming Students

**DOWNLOAD
ELC'S 2024-25 BACK-
TO-SCHOOL GUIDE!**



<https://www.elc-pa.org/2024-back-to-school-guide-for-students-families-advocates/>

Education Law Center-PA
Intake: 215-238-6970
Email: info@elc-pa.org